

FILED

UNITED STATES COURT OF APPEALS

MAY 07 2013

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MARCIANO PLATA; et al.,

Plaintiffs - Appellees,

v.

EDMUND G. BROWN, Jr., Governor of
the State of California; et al.,

Defendants - Appellants,

J. CLARK KELSO,

Receiver - Appellee.

No. 13-15466

D.C. No. 3:01-cv-01351-THE
Northern District of California,
San Francisco

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

Appellees' motion to dismiss this appeal for lack of jurisdiction is denied without prejudice to renewing the arguments in the answering brief. *See Nat'l Indus. v. Republic Nat'l Life Ins. Co.*, 677 F.2d 1258, 1262 (9th Cir. 1982) (stating that merits panel may consider appellate jurisdiction despite earlier denial of motion to dismiss).

Appellants' request to expedite this preliminary injunction appeal beyond the currently established schedule is denied.

KS/MOATT

The opening brief has been filed. The answering brief remains due June 3, 2013; and the optional reply brief is due within 14 days after service of the answering brief. *See* 9th Cir. R. 3-3(b).